

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

June 1, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, June 1, 2006, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas.

The following members were present: Harold Warner Jr., Chair; Darrell Downing Vice-Chair; John W. McKay Jr.; Bill Johnson; Bob Aldrich; Elizabeth Bishop (in@ 1:34); M.S. Mitchell; Don Anderson; Denise Sherman; Bud Hentzen; Hoyt Hillman and Michael Gisick. Ronald Marnell and Morris K. Dunlap were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Scott Dunakey, Associate Planner; David Barber, Advanced Plans Manager and Lisa Estrada, Recording Secretary.

1. Approval of May 4, 2006 MAPC meeting minutes.

MOTION: Approve MAPC minutes of May 4, 2006.

DOWNING moved, **MCKAY** seconded the motion, and it carried (11-0).

❖ **SUBDIVISION ITEMS**

2. Consideration of Subdivision Committee recommendations from the meeting of May 25, 2006.

2-1. SUB 2005-128: Final Plat -- BLUEGRASS ESTATES ADDITION (FORMERLY KEENELAND ESTATES ADDITION),
located east of 167th Street West and south of Pawnee.

NOTE: This is unplatted property is located in the County within three miles of the City of Wichita. It is in an area designated as "2030 urban growth area" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Goddard Area of Influence.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. *The lagoon will need to be relocated.*
- B. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. City of Wichita Water and Sewer Department requests a petition for future extension of mains and laterals for sanitary sewer and City water services.
- D. City of Wichita Water and Sewer Department requests the drainage easements be combined with sanitary sewer easements. The plat needs to include 30-foot easements along the east, west, and south sides of the addition. A 20-foot easement should be shown between Lots 5 and 6 and between Lots 8 and 9.

The easements have been platted as requested.
- E. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- F. County Engineering needs to comment on the status of the applicant's drainage plan. *The drainage plan is approved. The floodway easement shown on the plat should be a floodway reserve.*
- G. The plat name needs to be changed on sheet 2 of 2.
- H. An onsite benchmark is needed.
- I. County Engineering has required a 70' right-of-way (established by a dedication or a right-of-way agreement) from Pawnee to Saratoga.

As requested, the plat contains a right-of-way established extending from Pawnee. This 70' off-site road right of way may need to be increased based on applicant's final street plan. This off-site agreement shall be established by separate instrument.
- J. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- K. The applicant shall guarantee the installation of the proposed streets to the 36-ft rock suburban street standard.

- L. Applicant will need to pay arterial paving fee of \$475 per acre.
- M. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- N. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 14. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width. **The modification is approved.**
- O. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- P. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- Q. The signature line for the County Commissioners Chairman needs to reference "Ben Sciortino".
- R. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- S. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- AA. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- BB. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approve per staff comments.

ALDRICH moved, **MCKAY** seconded the motion, and it carried (11-0).

2-2. SUB 2006-45: One-Step Final Plat -- MARTIN 2ND ADDITION, located west of 199th Street West and south of 37th Street North.

NOTE: This site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan.

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a water availability evaluation must be provided to **Sedgwick County Code Enforcement** to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.

- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan is needed. A flood study is needed, with minimum pads to be based on the flood study. The floodway reserve needs adjusted to encompass zone A. Terraces need to be removed. A drainage easement is needed on north line of Lot 1, to be based on applicant's drainage plan.**
- E. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- F. The applicant shall guarantee the installation of a 36-foot rock suburban street standard.
- G. On the final plat tracing, the contingent dedication of street right-of-way needs to be referenced in the plat's text. The language should state, "the contingent street dedication is hereby contingently dedicated as street right-of-way to become effective upon the platting of any adjacent subdivision having a street connecting thereto. The costs of constructing said street, are to be borne by the person(s) or agency that owns said adjacent subdivision."
- H. The MAPC signature block needs to reference "Harold L. Warner, Jr., Chair".
- I. The Applicant needs to verify the location of the pipeline easement indicated in the platting binder. The easement shall be shown if encumbering this plat, or verification provided that it is off-site or has been released.
- J. An onsite benchmark is needed.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- T. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approve per staff comments.

ALDRICH moved, **MCKAY** seconded the motion, and it carried (11-0).

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- 2-3. **SUB 2006-48: One-Step Final Plat -- SLATE CREEK ADDITION,** located on the northwest corner of 21st Street North and Hoover Road.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. The water line petition has already been filed and plan is currently in design stage.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **Traffic Engineering** needs to comment on the access controls. The plat proposes one opening along 21st St. North and one opening along Hoover. The Subdivision Regulations require a minimum of 150 feet of complete access control from the centerline of the nearest railroad track. **The opening along 21st St. North should be in alignment with the opening to the south.**
- D. **Traffic Engineering** has requested a major street intersection in accordance with Access Management regulations
- E. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- F. The plat needs to denote a film and page for offset area at west side of plat.
- G. A north/south drainage easement needs to be denoted near northwest corner of Lot 1 (Film 1134 Page 335-338).
- H. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Q. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approve per staff comments.

ALDRICH moved, **MCKAY** seconded the motion, and it carried (11-0).

2-4. SUB 2006-47: One-Step Final Plat -- FONTANA 3RD ADDITION, located on the north side of 29th Street north and east of 119th Street West.

NOTE: This is a replat of a portion of the Fontana Addition. The number of lots has increased from 38 to 48 lots. The streets have been relocated to accommodate the revised lot sizes.

- A. The applicant shall guarantee the extension of water to serve the lots being platted and sewer to serve the lots being platted that aren't already included in a project currently under construction. An easement is needed to cover a portion of that line that is not located in an easement just south of Mark Randal.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan.
- D. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted that calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- F. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided that provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- G. The owners of the reserves shall bear the cost of any repair or replacement of improvements within said reserves resulting from street construction, repair, or maintenance.
- H. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- I. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The applicant shall submit a covenant that provides for four (4) off-street parking spaces per dwelling unit on each lot that abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- K. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility

easements to be platted on this property.

- U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Defer request for two weeks.

MITCHELL moved, **MCKAY** seconded the motion, and it carried (11-0).

BISHOP arrived

❖ **PUBLIC HEARINGS – VACATION ITEMS**

- 3-1. **VAC 2006-25: Request to Vacate a Platted Drainage Easement**, generally located west of Zoo Boulevard, south of 13th Street North and northeast of the Clara Street - Doris Street intersection.

APPLICANTS/OWNERS: Kelley & Coleman Inc., c/o Steve Kelley

AGENT: Baughman Co. PA c/o Phil Meyer

LEGAL DESCRIPTION: The platted 20-foot drainage easement, located between the common lot lines of Lots 5 & 6, Block A, Steve Kelley 5th Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of Zoo Boulevard, south of 13th Street North, and northeast of the Clara - Doris Streets' intersection (WWC #VI)

REASON FOR REQUEST: Development/boundary shift

CURRENT ZONING: Site and all abutting and adjacent properties are zoned "SF-5" Single-family Residential.

The applicant is requesting consideration to vacate the described platted drainage easement. There are franchised utilities, no manholes, sewer or water lines in the platted easement. The described easement abuts another platted drainage easement located in its rear yard that is common with another eleven (11) abutting, adjacent and continuous lots. Storm Water has approved the vacation of the described easement, ending at its intersection with the platted 20-foot drainage easement located in the rear (north side) yards of the subject lots. The Steve Kelley 5th Addition was recorded with the Register of Deeds April 28, 2004.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted drainage easement as described in the attached legal, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April May 11, 2006, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted drainage easement and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted drainage easement described in the petition should be approved with conditions:
- (1) Retain that portion of the easement as required by utilities and storm water. Send Planning, via e-mail, a legal description of the vacated portion of the easement, as agreed by utilities and storm water.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any needed replacement easements.
 - (3) All improvements shall be according to City Standards and at the applicant's expense.
 - (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Retain that portion of the easement as required by utilities and storm water. Send Planning, via e-mail, a legal description of the vacated portion of the easement, as agreed by utilities and storm water.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any needed replacement easements.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: Approve per staff comments.

HILLMAN moved, **DOWNING** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS**

4. **Case No.: ZON2006-11** – Richard and Mary Jo Hill Request Sedgwick County Zone change from “RR” Rural Residential to “GC” General Commercial on property described as;

The West three acres of a tract beginning at a point on the North line of the Northeast Quarter of Section 35, Township 28 South, Range 1 East of the sixth principal meridian, Sedgwick County, Kansas, said point being 776.52 feet West of the Northeast corner of said Northeast Quarter; thence South 330 feet; thence East 718.82 feet to the West line of A.T & S.F. Railroad right of way; thence Northerly along said right of way line 337.5 feet to the North line of said Northeast Quarter; thence West 648.07 feet to the point of beginning. Generally located on the southeast corner of 63rd Street South and Oliver, approximately 400 feet west of K-15

BoCC returned the case to MAPC for re-hearing on 6-1-06

BACKGROUND: The applicant requests a zone change for the subject property from RR Rural Residential to GC General Commercial. The subject property is located at the Southwest corner of K-15 and 63rd Street South, approximately 280 feet west of the K-15 right-of-way and is developed with a single-family residence. Also, the subject property lies within the A-O III-S Airport Overlay District. The applicant has offered a Protective Overlay limiting the range of allowable GC uses equal to what was approved for the Kuhn Company commercial development (DP-223), immediately across 63rd Street South. Staff has incorporated DP-223 use regulations and development standards into the staff recommendation to provide for a consistent level of development in the area.

The surrounding area is characterized by commercial and residential uses. The property to the north, across 63rd Street, is zoned GC Limited Commercial and developed with self-service storage and outdoor vehicle and equipment sales. The subject property is bounded by the new Oliver Street extension along its west and south boundaries. Just east of the subject property is a set of Burlington Northern Santa Fe (BNSF) railroad tracks. The properties to the west and south are zoned RR Rural Residential and are developed with single-family residences and agricultural uses. The property to the east, across K-15, is within City of Derby municipal boundaries and is developed with a variety of commercial and industrial uses, including a Lowe's Home Improvement Center.

There is an issue with the proximity of the property to the BNSF railroad tracks. Eastbound vehicles that are stopped for the railroad crossing could block westbound drivers from turning south into this property. Westbound vehicles could be stacked back through the railroad crossing and crossing gates. Forcing the left turns to the new Oliver Street will increase this stacking distance and provide additional safety. At the request of County Public Works, this requirement is incorporated into the Protective Overlay as a condition of platting.

The Derby Planning commission heard this case on April 6, 2006 and unanimously approved per staff recommendations with two modifications. First, they recommended that Item #8 of the Protective Overlay be revised to require compliance to the City of Derby Sign Code. Second, they recommended revising Item #9 of the Protective Overlay to require compliance to the City of Derby Landscape Ordinance. The subject property lies within the City of Derby platting area, so the plat will be required to comply with their Subdivision Regulations. During the Derby staff presentation, it was noted that it was unlikely that the subject property would ever be annexed by the City of Derby or served by Derby public utilities because of the expenses related to extending infrastructure under K-15 and the railroad tracks.

The main differences between the MAPD staff recommendation and the Derby Planning Commission recommendation are as follows: Signage – Staff recommendation equals the DP-223 signage provisions allowing pole signs up to 30 feet in height and 128 square feet of sign area. Derby recommends a prohibition of pole signs, requiring instead monument signage limited to six feet in height and 15 feet in width. Landscaping/screening – Staff recommendation is per Unified Zoning Code, would require a solid screening fence six to eight feet in height and one tree and five shrubs for every 30 linear feet of adjacent property line, with at least one-third of the trees being evergreens. Derby recommends an irrigated street yard at least 10 feet in width adjacent to all street frontages, landscaped with one shade tree or two ornamental trees per 500 square feet of street yard area and parking areas screened with a solid shrub row or hedgerow with a minimum height of three feet.

MAPC originally heard this case on April 20, 2006 and voted 6-5 to approve the request subject to the provisions stipulated by the Derby Planning Commission without having heard the MAPD staff presentation. Subsequently, the Sedgwick County Board of

County Commissioners heard the case on May 24, 2006 and voted unanimously to return the case to MAPC for re-hearing and further consideration.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: LC Office, general
 SOUTH: RR Oliver Street right-of-way; agricultural
 EAST: RR Single-family residence
 WEST: RR Oliver Street right-of-way; single-family residence; agricultural

PUBLIC SERVICES: The subject property currently has access only to 63rd Street, a four-lane principal arterial with traffic volume of approximately 7,400 vehicles per day. Current traffic volume on K-15 is approximately 26,000 vehicles per day. Traffic counts are unavailable for the applicable portion of Oliver Street. The subject property is not served by municipal water or sewer utilities.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for Local Commercial development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. As recommended for approval, the request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan. This site is identified by the McConnell AFB Joint Land Use Study (JLUS) as being within the 80 dB noise contour of the Maximum Mission Area and as such, recommends strict adherence to A-O Airport Overlay District provisions.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the rezoning to GC General Commercial be APPROVED, subject to platting within one year and the following Protective Overlay:

1. Allowable uses shall be limited to those allowed by right in the LC Limited Commercial zoning district, plus the following uses allowed by right in the GC General Commercial zoning district: vehicle and equipment sales, outdoor; storage, outdoor; warehouse, self-service storage.
2. Proposed uses other than those specified in Item #1 shall be allowed only by way of Conditional Use Permit or Protective Overlay Amendment, as specified in the Unified Zoning Code.
3. All development shall comply with Art. III, Sec. III-C.5 (A-O, McConnell AFB Airport Overlay District standards).
4. The applicant shall dedicate access controls at platting limiting the subject property to one right-in/right-out access onto 63rd Street, which shall be located a minimum of 75 feet east of the new Oliver Street.
5. The applicant shall dedicate access controls at platting limiting the subject property to two access points onto the new Oliver Street, the north of which shall be located a minimum of 75 feet from 63rd Street.
6. No structures shall be permitted that exceed two stories and/or 25 feet in height.
7. All proposed lighting shall comply with Art. IV, Sec. IV-B.4 of the Unified Zoning Code. No proposed pole lights (including base, standard, and fixtures) shall be taller than 14 feet. No pole lights shall be located within any of the building setback areas.
8. All signage shall comply with Sedgwick County Sign Code, except:
 - a. No rotating signs or signs with flashing lights shall be allowed.
 - b. No portable signs, off-site signs or billboards shall be allowed.
 - c. Only one freestanding sign shall be allowed, which shall be allowed on 63rd Street, and shall not exceed 30 feet in height and 128 square feet of sign area.
9. The site shall comply with all applicable landscape/screening provisions and Compatibility Standards of the Unified Zoning Code.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The GC zoning request is located across the street from approximately 35 acres of existing GC zoning to the north, which contains a retail store, trailer sales, self-storage units and outdoor storage of vehicles. Single-family residential and agricultural uses zoned RR Rural Residential make up the balance of the surrounding properties. However, uses to the east are considerably more intensive: railroad tracks, K-15 Expressway (a divided four-lane facility), a Lowe's Home Improvement Center and a mini-storage.
2. The suitability of the subject property for the uses to which it has been restricted: This site is located beneath the southern take-off and landing approach of McConnell AFB's runways. Because of the height of aircraft above this site when taking off or landing, uses located on this site experience considerable noise and vibration. Therefore, the County included this area in the Airport Overlay District III South. The A-O III designation places use limits on nonresidential uses and limits residential uses to a density no greater than one dwelling per 40,000 square feet. Furthermore, this site is identified by the JLUS as being within the 80 dB noise contour of the Maximum Mission Area. As such, the JLUS recommends strict adherence to A-O Airport Overlay District provisions. With the restrictions placed on the site by the Protective Overlay, the proposed GC zoning would allow nonresidential uses that comply with A-O District restrictions and JLUS recommendations. Also, the site location at the corner of an arterial and an expressway is an ideal location for commercial uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The subject property is just west of railroad tracks and the K-15 Expressway and just south of other commercial uses. The Protective Overlay, in combination with screening and landscaping requirements should eliminate any potentially negative impacts to adjacent property owners. The applicant has submitted a letter (attached) from the adjacent property owners to the east stating that they have no objections to the proposal.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for Local Commercial development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located

adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. As recommended for approval by staff, the request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.

5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated as recommended for approval. Infrastructure concerns will be addressed at platting.

SCOTT DUNAKY Planning staff presented the staff report indicating that the County Board of Commissioners had referred the case back to the MAPC for further consideration.

HENTZEN Wanted to know what the County's recommendations were.

DUNAKY County wanted this Body to hear the staff presentation, and to understand the issues since the presentation had not been heard at the last meeting. You are to vote based on this presentation.

DOWNING What are the County's requirements for landscaping?

DUNAKY There are no landscaping requirements but there are screening requirements, which would require a 6 to 8 foot screening fence.

DOWNING This should be a platting issue and not a zoning issue. He asked about the Big Tool Store, and opposed having another such building put on the doorstep to Derby.

DUNAKY Informed Mr. Downing that the Community Unit Plan, which approved the development standards were approved in 2001.

MITCHELL Is Oliver south of 63rd Street classified as an arterial.

DUNAKY No it is not classified.

MITCHELL The reference made to this property at the intersection of an expressway, was it 63rd? The recommendation was to defer the commercial traffic for this site onto Oliver for access, is that not correct?

DUNAKY Yes, from the east otherwise stacking would occur over the railroad tracks, which would create an unsafe situation.

MITCHELL How is traffic controlled from the westbound and not from the eastbound?

DUNAKY Advised that it was the recommendation from Mr. Weber from County Public Works.

BISHOP Asked for clarification, if the staff presentation was actually presented before the Derby Planning Commission or the Metropolitan Area Planning Commission on the April 20, 2006 meeting.

DUNAKY The presentation was not heard before MAPC on April 20th. A motion had been made prior to the presentation to accept per Derby's recommendation. The concern of the legal staff was to "not" refer to the Derby code, rather to pull out what the requirements were and put them into the motion. As the motion was made it equates to what the code is rather than specifically stating, "shall be subject to the Derby sign code, and the Derby Landscape Ordinance." Staff recommendation was not based on Derby's.

MARY JO HILL 4615 E 63RD Street South, Applicant, Ms. Hill felt that if they complied with Derby's requirement for landscaping they would lose approximately 10% of their land use because of having to landscaping on three sides. She advised that trees had been planted but because of a street widening project, the trees were removed along the north side of their property and never replaced. She asked for consideration as a Sedgwick County resident to develop their property.

MOTION: To approve the recommendation of the staff with the exception of Item 8 and 9, those two will be deleted and handled by the platting process

DOWNING moved, **HENTZEN** seconded the motion.

BISHOP Asked if item 9 is taken out would they still have to comply with the Landscape Code.

DOWNING Advised that the intent of the motion was to allow the screening and the landscaping to occur during the platting process. By removing items 8 and 9 it would not alleviate them from any landscaping requirements nor would it establish any landscaping requirements. Those requirements would be handled during the platting process.

SCHLEGEL Advised if the intent was to impose the Derby standards for landscaping and signage during the platting review, and if so you would be unable to do that. If they were meeting the requirements of the code you would be obligated to approve that plat. If you want to impose the higher standard, like Derby, this would be the time to do that as a condition of the zoning approval. It would be difficult to impose a higher standard for landscaping and signage, and make it stick during a platting review.

SHERMAN For clarification sake, if 8 and 9 are taken out and it goes to platting, are the Derby standards being imposed or Sedgwick County's?

SCHLEGEL If we were eliminating 8 and 9, we would apply Sedgwick County codes standards for reviews of building permits or platting, which are not Derby standards. Mr. Schlegel advised that Mr. Miller said this would fall under Derby's platting jurisdiction. Either way it goes, the plat would be reviewed by the Derby Planning Commission. It would go to Derby, then to the County Commission. It would not come before this body.

HENTZEN Asked if the County Commissioners had authority to impose rules if it were no longer under Derby's authority.

BOB PARNACOTT, Assistant County Counselor, asked if the question was after a plat has gone through the platting process at the Derby Planning Commission, and it finally comes to the Board of County Commission for the final stamp of approval, then to the Register of Deed for recording. This is what we call a ministerial act by the BOCC. They do not impose conditions at that point. They could reject a plat if there was something wrong with it. Typically it is done on a consent agenda basis, accepting the plat as approved by the Planning Commission.

SUBSTITUTE MOTION: To approve per staff comments.

WARNER moved, **BISHOP** seconded the motion, and it carried (9-3)
Opposed: **HENTZEN, SHERMAN, DOWNING**

5. **Case No.: CON2006-23** - Dean Nguyen / Dean's Auto Repair Request Conditional Use for outdoor vehicle sales, on property zoned "LC" Limited Commercial on property described as;

Lot 1 Voges VW Addition. Generally located West of Hillside and north of Conamore (2885 S. Hillside).

BACKGROUND: The applicant is requesting a conditional use to allow outdoor vehicle and equipment sales on Lot 1, Voges VW Addition, which is zoned LC Limited Commercial. The site is located at the northwest corner of South Hillside Avenue and Conamore Street and is currently developed with a five-bay door garage/office, used for limited car and light truck repair. The applicant proposes to retain the site's limited vehicle repair garage, which is permitted by right, and sell pre-owned cars and light trucks. Per the Unified Zoning Code, outdoor vehicle and equipment sales may be permitted as a conditional use in the LC zoning district.

Development east and south of the site is predominately strip commercial and automotive repair uses on property zoned LC Limited Commercial. The property north of the site is zoned LI Limited Industrial and developed with a machine shop. The adjacent property to the west is occupied with a single-family residence and appropriately zoned SF-5 Single-family Residential.

The applicant's site plan shows the existing garage/office, originally built in 1955, with two existing drives onto Hillside Avenue and one onto Conamore Street. The City Traffic Engineer recommends closing one of the driveways, with the preference being the access onto Conamore Street, to be more compliant with current access management provisions. The site plan does not illustrate that the site is large enough to accommodate requested vehicle display area and enough parking to satisfy Unified Zoning Code requirements. Therefore, staff is recommending conditional use provisions to satisfy these code issues. Finally, the north portion of the existing building is constructed inside a 10-foot utility easement. Staff is recommending that approval be conditioned upon vacation of this easement.

CASE HISTORY: The site was originally platted as a portion of Lots 1 and 2 of Butlers 2nd Addition. The site was replatted as Lot 1 of Voges VW Addition, which was recorded with the Register of Deeds January 19, 1989. The Board of Zoning Appeals denied a use exception request for new and used car sales at this location on August 24, 1976 (BZA 27-76) citing this use as inappropriate for the area.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|------|---------------------------------|
| NORTH: | LI | Machine shop |
| SOUTH: | LC | Strip retail; automotive repair |
| EAST: | LC | Strip retail; automotive repair |
| WEST: | SF-5 | Single-family residential |

PUBLIC SERVICES: The subject property has access to Hillside Avenue, a four-lane minor arterial street with a traffic count of approximately 8,000 vehicles daily. There is also one access point onto Conamore Street, which is a local residential street. Municipal water and sewer services and all other utilities are currently provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for local commercial types of use. Medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants, personal service facilities and on a limited basis mini-storage warehouse and light manufacturing are examples of local commercial uses. All of these uses would be on a scale that would not have a significant regional draw.

The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The site has direct access onto Central Avenue, a five-lane arterial. The conditions attached to a Conditional Use can address site design issues. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg Avenue and Broadway Avenue, or other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities.

In the past the MAPC has identified smaller car sales lots as being more of a local commercial establishment in their nature, as opposed to the cluster of larger car sales lots located primarily along Kellogg Avenue and Broadway Avenue, which are more regional in their clientele draw. The MAPC has also recommended that buildings that had in the past been used for automobile activities, such as vehicle repair garages, be considered as possible sites for car sales. The applicant's proposal is to continue to use the site for limited auto repair, while adding car sales on the site conforms to what the MAPC has recommended for this type of site in the past.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED** subject to the following conditions:

- A. In addition to uses permitted in the LC Limited Commercial district, the site shall be limited to the sales of cars and light trucks, only as long as it continues to operate as a vehicle repair, limited garage. No sale or rental of trailers, motorcycles or scooters, vehicles or trucks larger than pick ups are permitted.
- B. The applicant shall comply with all provisions of Section III-D.6.x. of the Unified Zoning Code regarding supplementary use regulations of outdoor vehicle sales in the LC zoning district.
- C. The applicant shall install and maintain landscaping in accordance with a landscape plan submitted with the revised site plan. The landscaping plan will be reviewed and approved by the Planning Director, prior to issuance of any permits or sales of vehicles.
- D. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. Outside storage of parts, including tires, associated with the car repair, limited, operation shall be within a 6-foot solid screened area.
- E. All vehicles associated with the car sales lot shall be located in south of the existing garage/office building and shall be located entirely within the south 56 feet and west 57 feet Lot 1 Voges VW Addition. The site shall be limited to the display of no more than eight vehicles for sale at any given time.
- F. All customer parking will be confined to the portion of the site not occupied with the vehicle display area and shall be striped with at least 14 parking spaces, one of which must van accessible. No customer parking spaces shall block or encroach into the ingress/egress driveways.
- G. The applicant shall dedicate by separate instrument access control closing one entrance, as approved by Traffic Engineering. The applicant shall guarantee the closure of all but the approved entrances according to City standards.
- H. The applicant shall initiate the vacation of the utility easement adjacent to the north property line.
- I. All improvements shall be completed within one year of the approval of the conditional use by the MAPC or the City Council. No vehicle sales shall be allowed until all permits have been acquired and all improvements to the site have been made.
- J. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the selling of any vehicles, within six months of approval by the MAPC or the City Council. The site plan will illustrate compliance with all approved conditions of the conditional use. The site will be developed according to the revised site plan.
- K. If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the neighborhood is predominately LC zoned local retail uses along both sides of Hillside Avenue. There are other car repair shops in the immediate area. There are no other car sales lots in the immediate area.
- 2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC Limited Commercial. The property is suitable for the commercial uses to which it has been restricted, including its current use as vehicle repair, limited.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Vehicle sales on a site this size when developed with the conditional use will have minimal negative impacts on the area and will likely improve the property, given the recommendation of additional access control, landscaping, screening, etc.
- 4. Conformance of the requested change to adopted or recognized Plans/Policies: The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. A conditional use for a car sales lot on this site does not entirely meet the commercial locational criteria, but it does conform to the MAPC's past recommendations in regards to locating small car sales lots on sites that had previously been used or are still being used for car related businesses. There is no adopted neighborhood plan that would specifically discourage a car sales lot on this site. The conditional use conditions do represent an opportunity for encouraging investment and upgrading the property while allowing the applicant the opportunity to expand his business opportunities.
- 5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate. Additional access controls will be an improvement to the area.

SCOTT DUNAKEY Presented the staff report.

MITCHELL Asked about Mr. Dunakey's statement on the two driveways on Hillside.

DUNAKEY Advised that Mr. Gunzelman requested the closure of one of the three driveways (two on Hillside, one on Conamore), preferably to close Conamore to take the commercial traffic off the residential street.

HILLMAN Asked if the proposal was to include taking down the fence and removing the house south of this property.

DUNAKEY The screening fence would remain where it is to provide the code required screening.

ALDRICH If the vehicle repair shop ceases, would the vehicle car sales also cease?

DUNAKEY As recommended, that would be correct. Due to the way the site plan is configured, this might be the best; they showed several vehicle display areas. Staff's recommendation was to simply confine it to a specific area, the dimensions of 57 x 56 feet to meet code requirements for striped parking on the remainder of the lot.

GISICK Are there requirements that would checkup or enforce the 56 x 57 to display or are they restricted by the number of cars?

DUNAKEY Code Enforcement would have to enforce the requirements. If found to be in violation; they could revoke the use. Dean's Auto Repair would be restricted by the site plan. You are approving the site plan per your action today.

BISHOP Asked if provision D and E are the items addressing the restrictions, and asked about the geography and where Joyland was located.

HARLAN FORAKER Certified Engineering Design, 810 W Douglas, Agent, Mr. Foraker was in agreement with staff comments. They are willing to work with staff on the landscaping requirements. However, some removal of the existing parking lot may occur to do the required landscaping "for the record". Mr. Foraker said Mr. Gunzelman advised that the driveway closure issue was not typically an issue of Conditional Uses, but a platting issue. Mr. Foraker said the applicant wondered if a fence were extended across the driveway for the purposes of closure and limiting access, could it be permitted or allowed?

WARNER Restated the request "if the requirement on the access is to remove it, whether or not you could extend the fence and close off, rather than go to the expense of tearing it out."

FORAKER Correct.

MITCHELL Motion to approve subject to staff comments, except change the word "remove" this drive on the Conamore drive to "close" the Conamore drive.

MOTION: To approve subject to staff comments, except change, the word "remove" this drive on Conamore drive to "close" the Conamore drive.

MITCHELL moved, **JOHNSON** seconded the motion, and it carried (12-0)

6. **Case No.: ZON2006-17** Dennis Niedens - Request Zone change from "SF-5" Single-family Residential to "MF-18" Multi-family Residential on property described as;

Lots 28 and 29, Linwood Acres Addition to Wichita. Generally located North of Lewis and east of Greenwich (11500 E. Greenwich)

BACKGROUND: The application area consists of two undeveloped, platted lots located north of Lewis and east of Greenwich, north of Kellogg. The 1.76-acre site is zoned "SF-5" Single-family Residential. The applicant requests "MF-18" Multi-family Residential zoning, the lowest level of multi-family zoning, to allow for multi-family development. Based on lot the size requirements of MF-18 zoning, the site could in theory be developed with up to 16 single-family residences, up to 20 duplex dwelling units, and up to 28 multifamily dwelling units.

Property north of the site is zoned SF-5 and developed with single-family residences, further north is property zoned "MH" Manufactured Housing and developed with a mobile-home park. South of the site is property zoned "GC" General Commercial and "LC" Limited Commercial, containing vacant commercial land and a single family-residence. East of the site is property zoned "TF-3" Two-family residential, developed with duplexes and single-family residences, further east is an MH zoned mobile-home development. West of the site is property zoned SF-5 and developed with single-family residences.

CASE HISTORY: The site was platted as Lots 28 and 29 of the Linwood Acres Addition 1929.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|--------------|---|
| NORTH: | "SF-5", "MH" | Single-family residential, manufactured housing |
| SOUTH: | "LC", "GC" | Single-family residential, vacant commercial |
| EAST: | "TF-3", "MH" | Single and two-family, manufactured housing |
| WEST: | "SF-5" | Single-family residential |

PUBLIC SERVICES: Lewis is a local street with a 50-foot right-of-way; Lewis is paved from the site to the west, east of the site is unpaved. The site has easy access to Greenwich, an arterial street, and Kellogg. All municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential". The Urban Residential category includes all densities of residential development found within the urban municipality.

Multi-family development on the site would require a 25-foot compatibility setback from the rear and side property lines. Multi-family development would also require a landscape plan, and conformance to the UZC parking requirements.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site is zoned SF-5 and developed with single-family residences, further north is property zoned "MH" Manufactured Housing and developed with manufactured housing. South of the site is property zoned "GC" General Commercial and "LC" Limited Commercial, containing vacant commercial land and a single family-residence. East of the site is property zoned "TF-3" Two-family residential, developed with duplexes and single-family residences, further east is an MH zoned manufactured home development. West of the site is property zoned SF-5 and developed with single-family residences. The request is not out of character with the mix of uses in the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned with single-family residential uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would almost double the density at which the site could be developed. The affect on nearby residents would be increased traffic on Lewis. However, single-family residences generate more traffic per unit than multi-family residences. The minimum standards of the Unified Zoning Code, to include compatibility setbacks, should mitigate potential negative effects on the surrounding residential neighbors.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential". The Urban Residential category includes all densities of residential development found within the urban municipality.
5. Impact of the proposed development on community facilities: Traffic on the existing residential streets will increase as a result of the proposed development.

JESS MCNEELY Planning staff presented the staff report.

MCKAY Jess, if the request was for MF-18, and wanted to know if he was building duplexes?

MCNEELEY Replied yes, the site is already platted in two lots; by going to MF-18, he could do multiple duplexes per lot. If he were to request TF-3, he would have to re-plat or do a lot split in order to do the development that he would like to do.

DENNIS NIEDENS Questioned the MF-18 versus the TF-3 zoning. He would like to do private paving, private utilities without having to get into a platting situation or a lot split at this point. He went with MF-18 because he could do his own sewers and provide private paved parking. The MF-18 required the larger setback to the adjacent neighbor. It also required some screening; he had no problem with that. With the MF-18, the platting and utility extension process takes 6-months to a year to do. He would like to start the project in a timely manner, and was not interested in doing any more density than the TF-3, and would like to do the project as a whole rather than split into lots and dedicate streets etc. He had talked to most of the neighbors in person or over the phone and they were not opposed to rental property in the area. It would be okay if there was a limit on the density. I would however like some flexibility as far as utilities and things. If I were to go into a single-family situation, I could do eight or 10 single-family residences on this, if I did the lot split, and paving. He was not interested in doing apartment complexes; I would like to do a little planned community. He had spoken to the residents on Lewis Street and they had no opposition to his knowledge.

HILLMAN Asked how many residences would end up in this space.

NIEDENS Would like to do four duplexes per lot, which would be consistent with the TF-3 zoning which is adjacent on the east. It would be 16 units on both lots.

HENTZEN Wanted to know how long Mr. Niedens had owned the lot?

NIEDENS Four months.

MITCHELL Said that staff information indicates that the lots were platen in 1929.

NIEDENS Understood that it was an old plat.

GLENDIA RICE 11414 E Lewis, This is to the east of the applicant's land. We have talked extensively about the development he wants to build, and we are aware that it would not be a complex that would look like an apartment complex. We are not opposed to it at all. My family has lived in the area since 1945. There are many rental homes within the area on Lewis. I cannot see where it would be a downgrade; I think it will only be an upgrade.

REX BILLS, 11407 E Waterman, directly to the left of the proposed development. I have lived in the area a long time. His concern is with the drainage. These lots were meant for one single-family home. If you add four duplexes on each lot, plus parking, the drainage coming off the area is going to be runoff. Where is all this water going to go?

MOTION: To approve subject to staff comments

MCKAY moved, **BISHOP** seconded the motion, and it carried (12-0)

7. **Case No.: ZON2006-20 (Associated with DP297 CUP2006-16)** – Bruce A. & Esther L. Pearson (owner); Poe & Associates, c/o Tim Austin (agent) Request The Creation of DP297 Pearson Commercial Community Unit Plan; and zone change from “SF-5” Single-family Residential to “LC” Limited Commercial and “GC” General Commercial on property described as;

CUP Tract:

The west 839 feet of the following described tract:

The south half of the northwest quarter of Section 5, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT that part taken for road purposes described as Beginning at the northwest corner of the south half of the northwest quarter of Section 5, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas; Thence east along the north line of said south half, a distance of 100.02 feet; Thence southwesterly a distance of 100 feet to a point 70 feet east of the west line of said south half; Thence south parallel with said west line, a distance of 1,221.01 feet to the south line of said south half; Thence west along said south line, a distance of 70.02 feet to the southwest corner of said south half. Thence north along the west line of said south half to the Point of Beginning. Said Tract Contains 25.3 Acres more or less. Generally located On the east side of Maize Road ¼ mile south of 29th Street North.

GC General Commercial:

The east 550 feet of the tract known as Parcel 2 of the west 839 feet the south half of the northwest quarter of Section 5, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT that part taken for road purposes.

LC Limited Commercial:

The west 839 feet the south half of the northwest quarter of Section 5, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT that part taken for road purposes and EXCEPT the east 550 feet of the tract known as Parcel 2.

BACKGROUND: The applicant proposes to create a commercial Community Unit Plan containing approximately 25 acres with seven parcels on the east side of Maize Road one-fourth mile south of 29th Street North.

Parcel 2 (11.5 ± acres) comprises the south half of the development except for Parcel 3 (1.48 acres) shown on the southwest corner of the CUP. The eastern 550 feet of Parcel 2 would be zoned “GC” General Commercial and would allow uses permitted by right in GC, with the remainder of Parcel 2 being zoned “LC” and permitting LC uses by right, except the following uses to be prohibited on all of Parcel 2: correctional placement residence, limited and general; animal care, general; broadcast/recording studio; kennel, hobby and boarding, breeding and training; marine facility; microbrewery; night club; pawn shop; recreational vehicle campground; riding academy or stable; sexually oriented business; tattoo/body piercing facility; tavern and drinking establishment; vehicle repair, general; vehicle storage yard; vocational school; warehouse, self-service storage; manufacturing, limited and general; car wash; and vehicle sales.

Parcel 3 (1.48 ± acres), Parcel 4 (1.53 ± acres), Parcel 5 (0.58 ± acre), Parcel 6 (1.03 ± acres) and Parcel 7 (1.01 ± acres) are located along directly along Maize Road. Parcels 4-7 are located between Maize Road and Parcel 1 (8.2 ± acres). Parcels 1, 3-7 are requested for LC zoning and would allow uses permitted by right in LC except correctional placement residences, limited and general; night club in the city, tavern and drinking establishment, warehouse self-service storage and adult entertainment. Additionally, it is recommended that the LC uses prohibited on Parcel 2 be prohibited on these parcels.

Outdoor storage and display for Parcel 2 would be allowed up to 20 percent of the floor area of the building, and a masonry type screening wall eight feet in height would be provided. Screening of outdoor storage would be per Unified Zoning Code (“UZC”) standards of the LC district for all other parcels. Outdoor display would be per LC standards except on Parcel 2 where it would be allowed within 15 feet of the building or within sidewalk areas so long as not blocking a 5-foot minimum pedestrian access and within areas shown on the site plan approved by the Zoning Administrator.

A 50-foot building setback is shown on Parcel 2. Other setbacks are not shown, but since the CUP requirements are 35 feet minimum for perimeter setbacks it would be assumed that the setback is 35 feet along Maize Road and suggested that the east and north building setback on Parcel 1 continue the 50-foot setback of Parcel 2. Maximum building height requested is 45 feet for Parcels 1 and 2 and 35 feet for other parcels. Maximum building coverage is requested for 30 percent for all parcels. Gross floor area requested is 30 % for Parcels 3-7 and 40 % for Parcels 1 and 2. Number of buildings requested is six for Parcels 1 and 2, two for Parcel 3, and one for Parcels 4-7.

Buildings would have predominately earth-tone colors and the exterior material would not be predominately metal. Consistency in lighting, landscape palette and ground signage is used as a unifying element. Parking lot lighting is requested up to 40 feet in height except reduced to 20 feet in height within 200 feet of residential uses.

The applicant has indicated Parcel 2 may be developed with a large home improvement store that the applicant feels will generate a lower amount of actual parking demand. Preliminary site plans, parking lot layouts, landscaping plans, building elevations and sign plans for this parcel were submitted with the application. However, these plans are not part of this request's approval and will require specific review for independent approval during the building construction phase, if the project proceeds. The applicant has requested the Superintendent of Central Inspection be given the flexibility to reduce parking by up to 25 percent of UZC parking requirements. The UZC normally permits a 10 percent reduction for new construction by administrative adjustment but increases this to 25 percent for renovation and redevelopment. This provision would allow the possibility of reducing the parking requirements commensurate for renovation and redevelopment.

An 8-foot screening wall with masonry type construction is shown along the east property line and the east 200 feet of the south property line. A landscape buffer is proposed to be located on the adjoining “SF-5” Single-family Residential zoning (open space),

with an off-site easement, rather than onsite. Landscaping and screening are not identified along the north property line; instead a 50-drainage easement is shown on the north property line. The standard Landscape Ordinance requirement and UZC requirement would be a masonry type wall six to eight feet in height plus a landscape buffer consisting of one tree per 40 linear feet due to the residential zoning on the abutting property.

The CUP requires a site circulation plan for individual parcels to avoid conflicts between traffic flow and parking, but does not require an overall site circulation plan demonstrating smooth internal flow. The CUP requires a pedestrian circulation system with connections between buildings and with the arterial sidewalk system. Cross-lot access also is required. An access and drainage easement is shown from Maize Road to the eastern property line. This could be used to provide access to the property to the east (see proposed General Provision #16).

The CUP restricts the number of ground signs to two large dual pylon signs with a maximum size of 300 square feet and height of 30 feet. Parcel 2 would be allocated 200 square feet in sign area and Parcel 3 allocated 100 square feet. Parcels 4-5 and Parcels 6-7 would share two smaller signs with a maximum height of 20 feet and 150 total square feet total sign area (75 feet per parcel). Off-site and portable signs are prohibited. The CUP requests that building signage be allowed to exceed Wichita Sign Code.

The property currently is zoned SF-5 with a single residence and open space use. It is in the wetlands area known as Cadillac Lake and falls within the 100-year FEMA floodplain boundary. The property to the west is zoned LC and developed with the NewMarket Shopping Center to the southwest, additional restaurants in NewMarket Square under construction directly to the west, and a SuperTarget and a bank to the northwest. The property to the south, known as Chadsworth Plaza, is zoned "NR" Neighborhood Retail, "GO" General Office and "NO" Neighborhood Office. Chadsworth Plaza is being developed with three small office/commercial buildings. The property located to the southeast is Chadsworth, a single-family neighborhood zoned SF-5. The application area is part of an 80-acre tract owned by the applicant; the property to the east of the application area is the balance (approximately 55 acres) of this tract and is in open space. The property to the north also is part of this open space/wetlands area and is zoned "SF-20" Single-family Residential.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|------------|--|
| NORTH: | SF-20 | Open space |
| SOUTH: | NR, GO, NO | Office, single-family residential |
| EAST: | SF-5 | Open space |
| WEST: | LC | Shopping center, large department store, restaurants |

PUBLIC SERVICES: Maize is a four-lane arterial road with center left-turn lanes. One full movement access and two right-in/right-out access points are requested on Maize Road. The main entrance already is signalized. Although the parcels will be expected to generate a significant increase in traffic on Maize Road, the limited number of access points and signalization should mitigate some traffic impacts.

Other normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "urban residential" use, as a potential future park site and as a stormwater retention area.

Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP requires a parcel-by-parcel site circulation plan and design element (signs, landscape palette, lighting) compatibility to address these policies. It stipulates shared signage for development identification/tenant signs. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP includes restrictions on uses, height of parking lot lighting within 200 feet of residential use, and a slight increase in setback along the common property lines from 35 to 50 feet. The total length of frontage for commercial parcels is long (one-fourth mile) but is located across Maize from the NewMarket Square shopping district with commercial/retail/restaurant uses.

RECOMMENDATION: The *Comprehensive Plan* recommends residential use, a potential park, and stormwater retention. The property is in the FEMA floodplain, and a portion is considered by the US Army Corps of Engineers to be part of the waters of the United States.

Staff's understanding is that the developer is discussing the use of the residual of the 80-acre tract, also owned by the applicant of this request, for stormwater retention, potential park use and wetlands mitigation with public agencies, but final plans, agreements and approvals have not been completed. The outcome of these discussions could affect the use of this tract for this or any potential development and supersede any action taken on the CUP at the current time.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to the plat being completed within one year. The one-year time frame begins to run from the last date of approval by the appropriate federal, state or city agencies responsible for drainage, stormwater and other relevant platting issues, and subject to the following conditions:

A. APPROVE the zone change (ZON2006-00020) to:

GC General Commercial:

The east 550 feet of the tract known as Parcel 2 of the west 839 feet the south half of the northwest quarter of Section 5, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT that part taken for road purposes.

LC Limited Commercial:

The west 839 feet the south half of the northwest quarter of Section 5, Township 27 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, EXCEPT that part taken for road purposes and EXCEPT the east 550 feet of the tract known as Parcel 2.

B. APPROVE the Community Unit Plan (DP-297), subject to the following conditions:

1. The applicant shall guarantee installation of the fourth leg of the traffic signal (and associated signal upgrades) at the intersection of Central Park and Maize Road.
2. All LC uses prohibited in Parcel 2 shall also be prohibited in Parcels 1 and 3-7.
3. In General Provision #9, the term "residential uses" shall be replaced with "residential zoning".
4. Add to General Provision #17: "or within areas on Parcel 2 zoned GC and designated on the site plan for outdoor display, subject to review and approval by the Zoning Administrator. These areas shall not occupy required parking spaces or impede traffic, vehicular and emergency circulation."
5. In General Provision #18, add: "No outdoor storage shall be allowed above the height of the screening wall along the southern 250 feet of the east property line or the south property line. In other areas, outdoor storage shall be screened by screening materials such as heavy black mesh fabric attached to vinyl covered chain link material for any storage above a required 8-foot masonry wall."
6. Add to General Provision #20: "Parking lot landscaping and screening shall be required for all parcels and a double row of staggered evergreen trees planted at a spacing to provide solid screening shall be planted along the east property line and eastern 200 feet of the south property line."
7. Add to General Provision #21 regarding wall height: "measured on the side of least vertical exposure above finished grade of the main buildings to the top of the wall."
8. Add to General Provision #22: An overall site circulation plan shall be submitted for review and approval by the Planning Director and Traffic Engineer prior to issuance of the first building permit, demonstrating smooth internal vehicular movements within the CUP. An internal drive shall be provided along the common boundary of Parcel 1 with Parcels 4-7.
9. Add a provision for building setbacks that stipulates building setbacks of 15 feet on internal property lines, 35 feet along Maize Road and 50 feet on the north property line to correspond to the boundary of the drainage easement shown for the north property line and the east property line.
10. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
11. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
12. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
13. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-297) includes special conditions for development on this property.
14. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property currently is zoned SF-5 with a single residence and open space use. It is in the wetlands area known as Cadillac Lake and falls within the 100-year FEMA floodplain boundary. The property to the west is zoned LC and developed with the NewMarket Shopping Center to the southwest, additional restaurants in NewMarket Square under construction directly to the west, and a SuperTarget and a bank to the northwest. The property to the south, known as Chadsworth Plaza, is zoned "NR" Neighborhood Retail, "GO" General Office and "NO" Neighborhood Office. Chadsworth Plaza is being developed with three small of office/commercial buildings. The property located to the southeast is Chadsworth, a single-family neighborhood zoned SF-5. The application area is part of an 80-acre tract owned by the applicant; the property to the east of the application area is the balance (approximately 55 acres) of this tract and is in open space. The property to the north also is part of this open space/wetlands area and is zoned "SF-20" Single-family Residential.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable for open space use but cannot not be developed easily with residential use due to wetlands mitigation/drainage detention issues.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval would bring commercial development in proximity to the northwest edge of the Chadsworth residential neighborhood. Solid landscape buffering, good screening (mechanical roof units painted to match roof, keeping outdoor storage below the top of the screening wall near residential uses, reduced lighting heights within 200 feet of residential, placement of loading docks on the north end of Parcel 2 farther away from residential uses can help mitigate the impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "urban residential" use, as a potential future park site and as a stormwater retention area. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP requires a parcel-by-parcel site circulation plan and design element (signs, landscape palette, lighting) compatibility to address these policies. It stipulates shared signage for development identification/tenant signs.

Commercial Locational Guideline #1 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP includes restrictions on uses, height of parking lot lighting within 200 feet of residential use, and a slight increase in setback along the common property lines from 35 to 50 feet. The total length of frontage for commercial parcels is long (one-fourth mile) but is located across Maize from the NewMarket Square shopping district with commercial/retail/restaurant uses.

5. Impact of the proposed development on community facilities: Although the parcels will be expected to generate a significant increase in traffic on Maize Road, the limited number of access points and signalization should mitigate most traffic impacts.

DONNA GOLTRY Planning staff presented staff report.

BISHOP Noted that the staff report said, "off site and portable signs are prohibited". She requested staff to point out where it said "there will be no off-site signs". She assumed that the way it was written in the staff report, you were referring to the actual CUP, but it is not in the conditions.

GOLTRY Noted that it would be added; that the statement "no off-site signs, billboards or portable signs will be permitted" would be added to General Provision # 14.

TIM AUSTIN Poe and Associates, Agent for Bruce Pearson. Present were representatives from Lowe's, Fire Mountain Grill, and Eastside Development. Poe and Associates were in agreement with staff comments; the only clarification would be to Reserve B to be used for a sign. It will be moved to the north of the north line of Parcel 3; it will be more centered in front of the Lowe's site. Lowe's is looking to locate on Parcel 2, Fire Mountain Grill will be on Parcel 3. The majority of this parcel is not wetlands. Out of the 80 acres, only 8 1/2 is wetlands, a low-lying area that provides storage volume to protect the Chadsworth Plaza Addition to the south. The residential area that it drains into, however, it is not wetlands. The Cadillac Lake drainage base encompasses about 2,600 acres. The majority of that acreage is within the City of Maize. We are looking to do a drainage improvement project with the City of Wichita, where the property that is undeveloped, 54 acres behind (to the east) of the part being zoned commercial, would be deeded over to the city and used for a detention pond and flood control purposes. This would be a public private partnership; private dollars that are earmarked to help pay for the improvements. The 54 acres will be turned into public space, park space; this is what is being proposed.

ALDRICH The lake is going to be to the east of this property.

AUSTIN Not a lake, just an area for drainage detention.

ALDRICH If the property is deeded over to the city, is this with no strings attached or is the City of Wichita going to have to purchase this? What are the costs involved?

AUSTIN Under the agreement we are currently reviewing and discussing, the land would be deeded to the City of Wichita with no acquisition cost. There will be improvements if the site is lowered to get additional detention capacity, and it would require a pump station, a lift station, and control weir structures; those costs would be included. The private side would be contributing about 48.5 percent of the monies, currently estimated at 2.9 million. On the private side of the drainage petition, it is not only this property. It is also the NewMarket property as well.

ALDRICH This could be costly to the City of Wichita.

AUSTIN It could be costly if we take other routes also. If we do nothing it could be much more expensive.

MITCHELL Is what you are recommending going to comply with the July 24 memorandum to Chris Churches from Storm Water Engineer having to do with the needs of the Cadillac Lake area for drainage.

AUSTIN I am not familiar with that memorandum. Approximately 4 years ago Public Works commissioned Baughman Company to do a drainage study. In that study, Baughman identified a certain amount of additional detention that would be required to protect some perceived future flood events in Chadsworth. What we have presented to the City, in terms of the overall drainage improvements, it does achieve the detention requirement. PEC is in the process of finalizing a drainage study, taking an independent view of the Baughman study, to validate the findings. Brent Remsberg from PEC has confirmed that he is coming up with some of the same conclusions, and that study should be completed sometime within the next few weeks.

MITCHELL The memorandum lists what was in the Baughman study, which you are proposing to comply with.

AUSTIN I understood the Baughman study had requested or identified an additional 100 acre-feet of storage would be needed immediately. Under the plan that we have now, we would meet the additional 100 acre-feet of storage.

MITCHELL How much of the proposed Community Unit Plan is currently in the FEMA Floodplain?

AUSTIN All 80 acres are in the FEMA floodplain.

MITCHELL Have you started the process to remove those areas from the floodplain?

AUSTIN Correct, we submitted application to FEMA over a year ago, but we have not completed the application.

MITCHELL You have an application to FEMA, the State, and the Corps of Engineers.

AUSTIN We have the floodplain fill permit, and the change of channel permit both in hand from DWR. The only permits needed are the 404 and the Core of Engineers permit, to the extent that they have jurisdiction. There is a Supreme Court ruling that is pending, which will come down within the next 60-days. It may be that the Corps of Engineers does not have jurisdiction; in which case we will proceed forthwith because we would not have the mitigation issues on the wetlands.

MITCHELL The recommendation of staff is "that you would have to plat within a year", what if the approval cannot be obtained within a year?

AUSTIN The staff report said it was one year from the date of final approvals. It is in the language, Page 5, above paragraph A "The one-year time frame begins to run from the last date of approval by the appropriate federal, state or city agencies".

FRED BERGER 10018 Chartwell Circle. Mr. Berger pointed out where his property was located; having Lowe's would be located behind his house. The 8-foot wall is 4 feet below our deck; sitting on our deck, we would have the Lowe's to look at. Having the Lowe's will create a lot of noise, traffic, and lights. We are already illuminated from NewMarket Square, and adding lighting from Lowe's will make it worse. The Cadillac Lake is a depression. The Kansas Geological Survey said there was salt under it. We could have a sinkhole if we get too much on it, too much water. There would be a water problem because of the water coming south. When we had the Halloween flood, we had water clear up to the berm in the back yard. The people along the north will need relocation money to get out of there.

AUSTIN In reference to the wall, when we fill that site, the wall as it is measured will be close to the finished floor elevation of the Lowe's building. It won't be existing ground level. So the finished floor at the Lowe's and the residential elevation will be about the same. He would not be able to see over the wall.

MOTION: To approve subject to staff comments with the inclusion of no off-site signs, billboards or portable signs.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (10-2)
Opposed: **DOWNING** and **ALDRICH**

BISHOP asked for clarification that the motion was including no off site sign.

8. **Case No.:DER2006-07** - Request Public hearing to consider adoption of the Priority Enhancement Areas for Wichita Public Infrastructure Projects Map as an element of the Wichita-Sedgwick County Comprehensive Plan. The new map will serve as an update to the Visual Form Map currently in the Comprehensive Plan.

Background: The 1993 Wichita-Sedgwick County Comprehensive Plan included a Visual Form Map in an effort to improve the quality of the physical built environment in Wichita. It focused upon vistas, corridors, landmarks and other community amenities for upgrading the public environment, improving standards for public and private development, and creating greater community awareness of the importance of its visual image.

In August 2005, the City's Design Council requested the assistance of MAPD staff in updating the Visual Form Map. Following several meetings, The Priority Enhancement Areas for Wichita Public Infrastructure Projects Map was developed to be a replacement of the 1993 Visual Form Map. It is intended to guide efforts to improve community perception and increase the sense of quality of life in Wichita through emphasis of the visual character of public facilities and open spaces. Its purpose is to help the City with prioritizing City of Wichita public works projects along specified corridors, at gateways, and at other selected locations for aesthetic improvements including landscaping, public art, and other visual enhancements to public facilities and rights-of-way. However, many of them did think this was a positive idea for the City of Wichita to take on.

The Advance Plans Committee directed staff to also visit with County staff to see if there was any interest in making similar designations and types of improvements in the unincorporated areas of the County. Staff met with County staff on March 7, 2006, and County Commissioners on April 11, 2006, and their feedback was not supportive of extending these concepts into unincorporated areas.

Recommended Action: That the Metropolitan Area Planning Commission pass a resolution adopting the Priority Enhancement Areas for Wichita Public Infrastructure Projects Map as an amendment to the Comprehensive Plan.

STEPHEN BANKS Planning staff presented report.

JOHN DANGELO City Arts and staff person for the Design Council. The Visual Form Map is used as a tool in planning Public Works projects. Those types of corridors, gateways, vista that should be considered or higher esthetic standard, something they may want to improve; it is a tool that changes as development changes; it is a starting point for staff to identify some of the key corridors in the areas. We are updating an old map that used to help guide and identify opportunities.

MITCHELL Asked what type of funding or proposal would you suggest be dedicated to these vistas, entertainment, etc.

DANGELO Funding come by way of the City projects when they are identified in the CIP, it ranges on the average we use 1% as a rule of thumb for public art opportunities, the rest are based on how the development around them are. There is no clear formula or dollar amount set aside but as the project develops and as Public Works identifies a project we make sure in that budget we have included some funding for esthetic enhancements to occur.

MITCHELL That money comes out of the CIP funds.

DANGELO Correct.

MITCHELL 10 mills has been tapped for up to 1.4 or 14% for Non Public Works Improvements. Mr. Mitchell asked Chris Carrier what the current total was right now.

CHRIS CARRIER Public Works Director, City of Wichita. The amount varies with property valuations. It is typically run 40 – 50 million-dollar CIP Program every year, and it would be in that ballpark somewhere. We have the visual enhancements are divided into two components, one is call a normal which is something which is designed for projects today, like concrete intersection, brick cross walks or traffic signal poles, landscaping standard that must be meet. The art element is that over and above the normal. As we design projects with visual enhancements and the art in them, the project cost estimate automatically over time come to include enough money in them to do those elements. The budget varies on these items. We work with the Design Council, the City Managers Office and we work with the community to put what we can into those projects as we do them. All of this is money that is budget into the CIP Program. Also from time to time, we do get private donations for features on public projects as well.

HILLMAN Going south along the river itself on Kellogg are plans of walkways, and a road on the east side of the river, with talk of improvements and enhancements along there, has this been identified.

CARRIER This map is to help Public Works, as they begin considering CIP Projects in the programming phase to know if projects were located in areas that they would consider critical, sensitive areas for part of our City. Do we want to consider visual enhancement to projects over and above the standard visual enhancement mentioned a minute ago, that they would get the Design Council Involved in. As we program projects we know where we need to look for the special features, it is not a perfect map, it will change over time, it will be updated periodically, it is a starting place.

DANGELO We identified the Westside of the river because currently there are opportunities for beautiful vistas. This is a guiding board look at this is a corridor that should be looked at for beautification purposes. This is to help identify when street projects come up in the CIP to identify key corridors and key areas; we are dealing with a 10-year plan, different years.

BANKS The eastside of the river is shown as one of the corridors, Public Works projects that would occur along the river would also be among those that would be considered. Eastside or Westside, McLean was shown because of projects that are taking place in the CIP and so forth right now. The rivers as well as the Big Ditch are shown as potential Corridors for enhancement projects. We do have parks shown in the small cities, those are technical correction, a mistake and will be removed. They appeared as a request that went to the County for the purpose of what they might want to do.

MITCHELL Asked how one could approve changes to the Comprehensive Plan when two governing bodies are affected but only one approves. The last paragraph said you met with Sedgwick County and they did not have any interest in supporting these concepts.

BANKS Sedgwick County is supportive of the City of Wichita doing these projects in Wichita, however they did not want to expend resources out into the County and rural areas to pursue similar projects. They felt that Wichita was doing a good effort, and felt it was something that should be done in order to show quality of live in the community and visual enhancements, but Sedgwick County was not interested in pursuing this type of program for their own projects.

HENTZEN If we pass this resolution as presented and the maps “as presented”, does it include the County and the small cities?

BANKS No, this is for Wichita Projects.

SCHLEGEL We are going to remove anything on the map that is outside the City of Wichita’s City limits.

HENTZEN Wanted included in the vote, that “it is not this map” being approved and asked for how the motion should be stated to include this request.

BANKS Subject to the correction. Yes. The motion should read “ Have the Planning Commission pass the Resolution adopting the Priority Enhancement Areas for Wichita Public Infrastructures Project Maps as amendment to the Comprehensive Plan subject to correction of technical errors showing parks in the small cities”.

MCKAY motion to that effect, it was seconded. We have passed the resolution adopting the Priority Enhancement Areas of the Wichita Public Infrastructures Projects Maps presented with corrections made on anything lying in the small cities or counties.

ALDRICH Supported creating community image awareness, the importance of its visual image and the quality of life however felt this takes away from that. He felt that money could be best spent from the CIP towards the infrastructures towards paving, curving, and sidewalk, there are to many streets in our core city that are dirt roads. We are missing our priority enhancement here especially in the eyes of the public and surrounding communities based on that statement I do not support the motion.

MOTION: We have passed the resolution adopting the Priority Enhancement Areas of the Wichita Public Infrastructures Projects Maps presented with corrections made on anything lying in the small cities or counties.

MCKAY moved, **HILLMAN** seconded the motion, and it carried (12-2)
Opposed: **MITCHELL** and **ALDRICH**

9. **Case No.: DER 2006-009** - Request The City Of Kechi Seeks Unilateral Annexation Of Various Tracts Of Lands Located Adjacent To The City Of Kechi – Resolution No. 06-543

On April 27, 2006, the City of Kechi passed Resolution No. 06-543 authorizing a public hearing on July 13, 2006 for the purposes of considering the unilateral annexation of 19 tracts of lands located at various locations adjacent to the Kechi city limits.

None of the proposed annexation tracts fall within the City of Kechi 2030 Urban Growth area as designated on the Wichita and Small Cities 2030 Urban Growth Areas Map of the Wichita-Sedgwick County Comprehensive Plan *Preparing for Change*, adopted and updated by the Wichita City Council and the Board of County Commission in May 2005. The proposed annexation tracts also do not fall within Kechi's future growth area, as identified in its adopted Comprehensive Plan.

The City of Kechi has not submitted to the MAPD, a copy of their service plan describing the extension of services to the annexation areas.

Kansas statutes require that the planning commission review the proposal and make a finding of compatibility or incompatibility with any adopted land use or comprehensive plans related to the area and the annexing city. After review by staff, it has been concluded that the proposed annexation of 19 tracts of land located adjacent to the Kechi city limits is not consistent with the Wichita-Sedgwick County Comprehensive Plan.

Staff recommends that the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 06-543 of the City of Kechi to be not consistent with the adopted Wichita-Sedgwick County Comprehensive Plan

DAVE BARBER Planning staff presented report.

WARNER What are the consequences, if we agree to staff recommendations, will it have any affect on anything or any body.

BARBER No, it does not.

HENTZEN The black dots on the map ...are these the requested areas?

BARBER Yes, those are the areas the City wishes to unilateral annex.

HENTZEN It looks like they are surrounded on all sides except a few, along Hillside. The City Kechi surrounds all those black dots.

BARBER Correct, they are trying to eliminate the check-a-board pattern, fill it in and include it within their corporate limit. The issue here is "is it consistent with the Wichita-Sedgwick County Plan" and the answer is no.

HENTZEN How is it inconsistent?

BARBER The Sunnysdale area was annexed on a consent bases into Kechi, inconsistent with both the City of Kechi and the County's Comprehensive Plans.

SCHLEGEL Keep in mind the only thing you are doing is providing a finding of whether it is consistent with the Comprehensive Plan. You are not passing judgment on whether it makes sense. Perhaps the Comprehensive Plan should be amended, but as it stands today, it was not at the time of the annexation.

It was moved and approved subject to staff comments. It was seconded, to deny the request. The motion was that this does not conform to the Comprehensive Plan.

MOTION: To approve, subject to staff comments; to deny the request. The motion was that this does not conform to the Comprehensive Plan

MITCHELL moved, HILLMAN seconded the motion **{10-2}**
Opposed: **HENTZEN** and **MCKAY**

The Metropolitan Area Planning Department informally adjourned at 3:16 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)

